Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author:	Margett	Analyst:	Rachel Coco	Bill Number:	SB 407
Related Bills:	See Legislative History	Telephone:	845-4328	Introduced Date:	February 17, 2005
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Postsecondary Education Trust Fund/Corporate Voluntary Contribution

SUMMARY

This bill would establish the Postsecondary Education Trust Fund for taxpayer contribution designation on the corporate tax return.

PURPOSE OF THE BILL

According to the author's office, the purpose of the bill is to allow for the furtherance of postsecondary education in this state.

EFFECTIVE/OPERATIVE DATE

This bill would become effective January 1, 2006, and would apply to tax returns filed on or after that date.

POSITION

Pending.

ANALYSIS

<u>FEDERAL/STATE LAW</u>

Current federal tax law provides a check-off to direct $3 of a taxpayer's tax liability to the presidential election fund. Designation of the $3 does not affect a taxpayer's tax liability or refund amount.

Current state tax law allows individuals subject to the Personal Income Tax (PIT) to make contributions of their own funds, not tax liability, to 13 voluntary contribution funds listed on the PIT return. Each fund provides for the reimbursement of the Franchise Tax Board's (FTB's) and the Controller's actual costs to administer the fund.

Except for the California Seniors Special Fund, which has no sunset date, the voluntary contribution funds have various sunset dates. In addition, all funds, except the California Seniors Special Fund, must meet a minimum contribution test to remain on the return.

Board Position:			Department Director	Date
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______ N	______ OUA	__X__ PENDING		

THIS BILL

This bill would establish the Postsecondary Education Trust Fund. This bill would allow taxpayers subject to tax under the Corporation Tax Law to designate their own funds, not tax liability, for contribution to the fund on corporate tax returns in full dollar amounts of $1 or more. The designations for any taxable year would be made on the initial return for the taxable year and, once made, would be irrevocable.

This bill would specify that if payments and credits reported on the return do not exceed the taxpayer's liability, the taxpayer's return would be treated as if no designation has been made. If no designee is specified, the designated contribution amount would be transferred to the General Fund.

This bill would require the Controller to transfer money designated for this fund by taxpayers from the Corporation Income Tax Fund to the Postsecondary Education Trust Fund. Upon appropriation by the Legislature, the moneys from this fund would be allocated to: 1) FTB and the Controller for reimbursement of costs incurred in administering this fund, and 2) the California Postsecondary Education Advisory Committee for allocation for the furtherance of postsecondary education within the state.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would require some changes to existing corporate tax forms and instructions and information systems, which could be accomplished during the department's normal annual updates.

TECHNICAL CONSIDERATIONS

The bill states that the "department" shall have no oversight authority over the moneys contributed to this fund. It appears that "department" is intended to refer to the California Postsecondary Education Advisory Committee. If that is the intention, department may not be the appropriate term. The author may wish to amend the bill to clarify the reference.

OTHER STATES' INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota,* and *New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

Florida does not allow contribution designations on the state's corporate tax forms.

Massachusetts, Minnesota, and *New York* allow for taxpayer contribution designations on corporate income tax returns; however, none of the designations are similar to the one proposed by this bill.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue losses:

Estimated Revenue Impact of SB 407 As Introduced 2/17/05			
Fiscal Year	2005-06	2006-07	2007-08
	No Impact	a/	a/

a/ Revenue losses of less than $150,000.

Revenue Discussion

The revenue impact of this bill would be determined by the net amount of additional contributions reported on corporate tax returns and the tax rate of those taxpayers specifying such contributions to the Postsecondary Education Trust Fund. Since the proposed voluntary contribution would first be available for designation on the 2005 corporate tax returns and the deduction for specified voluntary contributions would not be reported until the return filed for the 2006 taxable year, which is filed during 2007, there is no revenue impact in the first fiscal year.

In 2002, 112,000 corporations filing a tax return in California contributed $9.9 billion to various charitable organizations. The $9.9 billion is before apportionment of income to California. It is unknown to what extent the proposed voluntary contribution designation on a corporate tax return would result in increased contributions. It may only divert otherwise planned corporate giving.

Voluntary contributions have been on the personal income tax returns since 1982. Departmental data indicates that some of those voluntary contribution designations received contributions of as much as $500,000 annually. The highest contributions were to the Breast Cancer Fund of around $750,000. Assuming the proposed corporate voluntary contribution would be as successful as some PIT special causes and receives net additional contributions totaling $500,000 after apportionment, applying an average tax rate of 8%, would result in a revenue loss of $40,000 ($500,000 x 8% = $40,000) from the deducting of voluntary contributions on the following year's tax return.

POLICY CONCERNS

This bill lacks a sunset date. Voluntary contributions generally contain a sunset date to allow periodic review by the Legislature. Without a sunset date, this voluntary contribution would remain on the corporate tax forms indefinitely.

This bill lacks any total minimum contribution requirement for the fund to meet in order to remain on the tax return. Other voluntary contributions have been enacted with a $250,000 minimum contribution amount that must be met to remain on the tax return. By requiring a minimum contribution amount, there is certainty that all costs associated with administering the fund are met.

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